

Article - Environment

[\[Previous\]](#)[\[Next\]](#)

§2-1002.

(a) On or after January 1, 2009, affected facilities collectively may not emit more than 20,216 tons of oxides of nitrogen per year.

(b) (1) On or after January 1, 2010, affected facilities collectively may not emit more than 48,618 tons of sulfur dioxide per year.

(2) The Department may set an interim stage reduction for sulfur dioxide.

(c) On or after January 1, 2012, affected facilities collectively may not emit more than 16,667 tons of oxides of nitrogen per year.

(d) On or after January 1, 2013, affected facilities collectively may not emit more than 37,235 tons of sulfur dioxide per year.

(e) (1) The Department shall set emissions budgets for each affected facility to implement the emissions limitations in subsections (a), (b), (c), and (d) of this section.

(2) (i) This paragraph applies to an affected facility that is owned, leased, operated, or controlled by a person that owns, leases, operates, or controls more than one affected facility.

(ii) An affected facility may emit more than the emissions budget set for the facility under paragraph (1) of this subsection as long as the person owning, leasing, operating, or controlling the affected facility does not exceed the cumulative emissions budget for all of the affected facilities that the person owns, leases, operates, or controls.

(3) If an affected facility permanently ceases operation, the Department:

(i) Shall subtract the emissions budget for that affected facility from the emissions limitations established in subsections (a), (b), (c), and (d) of this section; and

(ii) May not increase existing emissions budgets for all other affected facilities.

(f) (1) On or after January 1, 2010, a person that owns, leases, operates, or controls an affected facility shall achieve a minimum 80% capture of mercury for each affected facility, calculated as a rolling 12-month average.

(2) On or after January 1, 2013, a person that owns, leases, operates, or controls an affected facility shall achieve a minimum 90% capture of mercury for each affected facility, calculated as a rolling 12-month average.

(3) A person that owns, leases, operates, or controls an affected facility shall demonstrate compliance with this subsection through the direct monitoring of mercury emissions on a continuous basis, according to the requirements of 40 C.F.R. Part 60, Subpart UUUUU.

(4) The Department shall adopt regulations that establish a procedure to be used to determine a baseline amount of mercury at each affected facility for purposes of calculating the capture rate required under this subsection.

(g) (1) In this subsection, “allowance” means one ton of carbon dioxide that may be bought, sold, traded, or banked for use under the Regional Greenhouse Gas Initiative.

(2) Not later than June 30, 2007, the Governor shall include the State as a full participant in the Regional Greenhouse Gas Initiative among Mid-Atlantic and Northeast states.

(3) The State may withdraw from the Initiative, as provided in the December 20, 2005 memorandum of understanding of the Initiative, at any time after January 1, 2009, if the General Assembly enacts a law to approve the withdrawal.

(4) If the Regional Greenhouse Gas Initiative expires and there is a successor organization with the same purposes and goals, the Governor is encouraged to join the State in the successor organization.

(5) Notwithstanding § 2-107 of this title, all of the proceeds from the sale of Maryland allowances under the Regional Greenhouse Gas Initiative shall be deposited in the Maryland Strategic Energy Investment Fund under § 9-20B-05 of the State Government Article.

(6) If the State’s participation in the Regional Greenhouse Gas Initiative ceases for any reason, the Governor shall report to the General Assembly, in accordance with § 2-1257 of the State Government Article, regarding:

(i) Why participation ceased; and

(ii) A plan to reduce carbon dioxide emissions from power plants in the State that considers the use of Maryland grown, native, warm season grasses as a possible method of reducing carbon emissions.

(h) The provisions of this section may not be construed to affect existing or future emissions requirements, standards, or limitations imposed on electricity generators by any other existing or future provision of law that would result in emissions reductions in addition to those required under this section.

(i) (1) A person that owns, leases, operates, or controls an affected facility that is subject to the requirements of this section may determine how best to achieve the collective emissions requirements under subsections (a), (b), (c), and (d) of this section.

(2) (i) If a person that owns, leases, operates, or controls an affected facility can demonstrate, with clear and convincing evidence, that the pollution control equipment that is necessary to achieve compliance with the requirements of this section is unattainable, due to a lack of available supply, the Department may reduce or waive any penalty due to the failure to attain compliance until the pollution control equipment becomes attainable.

(ii) If a person that owns, leases, operates, or controls an affected facility can demonstrate, with clear and convincing evidence, that the pollution control equipment that is necessary to achieve compliance with the requirements of this section has significantly increased in cost due to the limited amount of supply and, as a result, may significantly increase electric rates, the Department may reduce or waive any penalty due to the failure to attain compliance until the supply of pollution control equipment becomes available so as to reasonably lower the cost of the pollution control equipment.

(iii) In determining whether to reduce or waive any penalty under this paragraph, the Department shall consult with the Public Service Commission as to the availability and cost of the pollution control equipment.

(3) (i) A decision by the Department to reduce or waive any penalty under paragraph (2) of this subsection shall be subject to judicial review by any person who meets the threshold standing requirements under federal constitutional law.

(ii) Any action to reduce or waive any penalty under paragraph (2) of this subsection shall remain in effect until judicial review is final.

(j) (1) If the U.S. Environmental Protection Agency allocates emission allowances for mercury, sulfur dioxide, or oxides of nitrogen to the State, the allowances shall be treated as provided in this subsection.

(2) The Department:

(i) May not allow the application of allowances to the compliance of any affected facility with the emissions limitations established under subsections (a) through (d) of this section; but

(ii) May allow the allowances to be sold or traded to facilities outside the State in accordance with allowance trading programs of the U.S. Environmental Protection Agency.

[\[Previous\]](#)[\[Next\]](#)